

**HIGH COURT OF UTTARANCHAL AT NAINITAL**

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

W.P. No. 71 of 2006 S/S  
Khim Singh  
& others  
Vs  
Secretary Public Works  
Department

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 8.2.2006

Initial of Judge

## **HIGH COURT OF UTTARANCHAL AT NAINITAL**

Writ Petition No. 71 of 2006 (SS)

1. Khim Singh s/o Narayan Singh  
Village Simalkhet, P.O. Gangolihat,  
District Pithoragarh
2. Hayat Singh s/o Kharak Singh,  
Village Jarmalgaon, P.O. Kanara, District Pithoragarh
3. Ramesh Chandra Pant s/o Siromani Pant  
Village Khatoli P.O. Berinag, district Pithoragarh.
4. Mohan Singh s/o Harak Singh village Jagoli,  
P.O. Dasaithal District Pithoragarh.
5. Chyandra Ballabh s/o Sri ganga Datt village  
Futsil P.O. Guptadi, District Pithoragarh
6. Parmannd s/o Sri Jai Dut r/o village Ganala  
P.O. Dasaithal, District Pithoragarh.
7. Fakir Datt Suntha s/o Sri Purushottam Suntha  
Village Simalta P.O. Ghorasila,  
District Pithoragarh. .... Petitioners

Versus

1. Secretary Public Works Department, Govt. of Uttaranchal
2. Engineer in Chief, Public Works Department  
Uttaranchal
3. The Chief Engineer, P.W.D. Kumaon Region,  
Almora
4. The Executive Engineer, P.W.D.  
Pithoragarh ..... Respondents

Sri Anil Bisht, Advocate for the Petitioners.  
Standing Counsel for the respondents.

Dated: 8.2.2006

**Hon'ble Rajesh Tandon J.**

Heard the learned counsel for the parties at length. Both the parties are agreed that the matter may be disposed of at this stage.

The petitioners have filed the present writ petitions for the issue of a writ order or direction in the nature of mandamus directing the respondents to regularise the services of the petitioner and further a writ of certiorari quashing the order dated 6.9.2000/7.9.2000 passed by respondent no. 4.

Brief facts giving rise to the present writ petition are that the petitioners were appointed on daily wages on the posts of Meth and Beldar and they were working in the department since 1985 on daily wages. Thereafter they were given pay scale of 305-390 from different dates. The petitioners are still working and getting minimum wages of Rs.2550/- per month. The petitioners were confirmed w.e.f. 24.8.99 by the order of Executive Engineer, P.W.D. Pithoragarh on the admissible pay scale for the class IV employees i.e. 2550- 3200 but thereafter vide order dated 6.9.2000/7.9.2000 again their regularization was cancelled and now they are getting minimum wages. According to the petitioners they made several representations to the respondents requesting them that the petitioners are entitled for regularization as they have completed 18-20 years service in the department but their services has not been regularised as yet.

The counsel for the petitioners has submitted that the case of the petitioners is squarely covered by the judgment of this Court pronounced in writ petition No. 101 of 2000 (SS) and writ petition no. 236 of 2000.

This Court in Writ Petition No. 101 of 2000 (SS) Gyan Prakash & others vs. State of Uttaranchal & others decided on 22.10.2003 has held as under:

*The cancellation orders could not have been passed without affording opportunity of hearing to the petitioners as held by this Court in Writ petition No.236 (SS) of 2000, Pooran Singh vs. State of Uttaranchal and others, relying upon the the Apex Court in Basudeo Tewari vs. Sido Kanhu University and others (1998) 8 S.C.C. 194 and Gajanan L. Parnekar vs. State of Goa and another (1998) 8 S.C.C. Hon'ble Mr. Justice P.C. Verma has held as under:*

*"It is not disputed that the cancellation orders has been passed without any notice or pay in lieu of notice as required in condition No.2 of the regularisation orders contained in annexure No.1, therefore, cancellation orders have been passed without affording any opportunity of hearing to the petitioners. As the regularization orders were passed in implementation of the Scheme contained in Govt. order dated 15.10.1997 after due selection and the petitioners were regularized against the then existing posts, as such, the reason assigned for cancellation that posts have been reallocated by the Chief Engineer vide order dated 10.04.2000 is not acceptable.*

\* \* \* \* \*

*On account of cancellation of regularisation, the petitioners have suffered civil consequences, therefore, the cancellation orders could not have been passed without affording opportunity of hearing to the petitioners as held by the Apex Court in Basudeo Tewary vs. Sido Kahu University and others (1998) 8 S.C.C. 194. In Gajanan L. Parnekar vs. State of Goa and another (1998) 8 S.C.C. the Apex court held that recall of order of absorption without giving notice or opportunity of hearing is violative of principles of natural justice.”*

*Admittedly the orders of cancellation have been passed without affording any opportunity to the petitioners.*

*Consequently the writ petition is allowed and the orders passed by the respondents canceling the regularization of the petitioners are quashed. No order as to costs.”*

In view of above, a writ of certiorari is issued quashing the order-dated 6.9.2000/7.9.2000 passed by the respondent no. 4 and the petitioners are reinstated as regular employees on their respective posts.

Dated: 8.2.2006

\*Dhyani

**Rajesh Tandon J.**